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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,246	12/04/2003	Cindy Orser	ADL-101	8108
22428 7590 12/14/2007 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER MOSS, KERI A	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 12/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,246	Applicant(s) ORSER ET AL.	
	Examiner Keri A. Moss	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 105-123, 146 and 147 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 105-112, 119-123 and 146-147 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I claims 105-123 and 146-147 in the reply filed on September 28, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 113-118 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. In claim 113, it is unclear what "oriented in the forward direction" is modifying. Is it the target protein that is oriented in the forward/reverse direction or is it the first amino acid sequence? If it is the amino acid sequence, it would be clearer if "oriented in the forward direction" immediately followed "amino acid sequence."
5. Claims 114-118 are unclear by virtue of being dependent on claim 113.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims **105-112, 119-123 and 146-147** are rejected under 35 U.S.C. 102(b) as being anticipated by Prusiner et al (USP 5,565,186). Prusiner teaches a protein probe comprising the sequence of instantly claimed SEQ ID 2 (columns 27 and 28, amino acids 103-121). The probe inherently corresponds to a β -sheet-forming region of a target protein as its sequence matches the claimed sequence. The target protein is associated with Creutzfeld Jakob disease, Kuru and fatal familial insomnia (abstract). The detectable label is an optically detectable moiety (Example 9).

8. Claims **105-112, 119-123 and 146-147** are rejected under 35 U.S.C. 102(e) as being anticipated by Prusiner et al (USP 6290954). Prusiner teaches a protein probe comprising the sequence of instantly claimed SEQ ID 2 (column 41, amino acids 103-121). The probe inherently corresponds to a β -sheet forming region of a target protein as its sequence matches the claimed sequence. The target protein is associated with

Creutzfeld Jakob disease, Kuru and fatal familial insomnia (columns 3-4). The detectable label is an optically detectable moiety (Example 9).

9. Claims **105-112, 119-123 and 146-147** are rejected under 35 U.S.C. 102(e) as being anticipated by Collinge et al (WO 01/07479). Collinge teaches a protein probe comprising the sequence of instantly claimed SEQ ID 3 (Fig. 5: Mouse (RML), Mouse (Sh) and Marsupial amino acids 109-122). The probe inherently corresponds to a β -sheet forming region of a target protein as its sequence matches the claimed sequence. The target protein is associated with Creutzfeld Jakob disease, Kuru and fatal familial insomnia (page 1). The detectable label is an optically detectable moiety (page 9-10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keri A. Moss whose telephone number is 571-272-8267. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Keri A. Moss
Examiner
Art Unit 1797

/Maureen M. Wallenhorst/
Primary Examiner, Art Unit 1797